

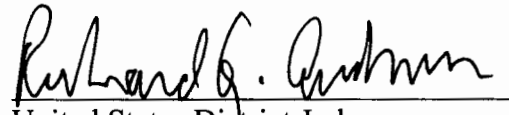
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

EON CORP. IP HOLDINGS LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 10-812-RGA
	:	
FLO TV INCORPORATED, et al.,	:	
	:	
Defendants.	:	

ORDER

Defendants object to a ruling of the Special Master. (D.I. 542, 558, 562, 566). It appears to be a procedural matter for which review is for an abuse of discretion. Fed. R. Civ. P. 53(f)(5). The complained-of ruling relates to the scope of the protective order as it relates to persons having access to “highly confidential – outside counsel eyes only” material and the ability of said persons to participate in “reexamination or reissue proceeding[s].” There is room for argument as to the extent of which a prosecution bar should apply, considered in the abstract. Here, though, we start with the fact that the dispute is limited to reexam proceedings, in which the potential for inadvertent harm is greatly reduced. In addition, the proposed bar has been raised fairly late in the litigation, and, given the representations about the size of the Plaintiff’s law firm, and the exposure of its attorneys to confidential information to date, as well as their experience with the patent and the prior art, the balance of harm does not favor the Defendants. Thus, I do not believe the Special Master abused his discretion, and, if I were reviewing it *de novo*, I would reach the same conclusion he did. Thus, this 23rd day of August 2013, IT IS

HEREBY ORDERED that the Special Master's Rulings and Recommendations (D.I. 542) are
ADOPTED.


United States District Judge